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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/781,033	02/09/2001	Donald P. Gibson	36.P290	1583
5514	7590	03/31/2006	EXAMINER	
FITZPATRICK CELLA HARPER & SCINTO 30 ROCKEFELLER PLAZA NEW YORK, NY 10112			VAN BRAMER, JOHN W	
			ART UNIT	PAPER NUMBER
			3622	

DATE MAILED: 03/31/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	09/781,033	GIBSON ET AL.	
	Examiner	Art Unit	
	John Van Bramer	3622	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) Responsive to communication(s) filed on 09 February 2006.
- 2a) This action is FINAL. 2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) Claim(s) 55-59 is/are pending in the application.
 - 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) Claim(s) _____ is/are allowed.
- 6) Claim(s) 55-59 is/are rejected.
- 7) Claim(s) _____ is/are objected to.
- 8) Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on _____ is/are: a) accepted or b) objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 - a) All b) Some * c) None of:
 1. Certified copies of the priority documents have been received.
 2. Certified copies of the priority documents have been received in Application No. _____.
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)	4) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s)/Mail Date. _____.
2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)	5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)
3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date _____.	6) <input type="checkbox"/> Other: _____.

DETAILED ACTION

Response to Amendment

1. The amendment February 9, 2006 has been entered and considered. Previous amendments cancelled Claims 1 – 46 and Claims 47 – 54 are cancelled in the current amendment. No claims were amended and claims 55 – 59 were added. Thus, the currently pending claims considered below remain Claims 55 - 59.

Claim Rejections - 35 USC § 102

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

3. Claims 55 - 59 are rejected under 35 U.S.C. 102(e) as being anticipated by

Agarwal et al (6,509,910).

Claim 55: Agarwal discloses an apparatus for providing image displaying services comprising:

a. Advertising information receiving means for receiving advertising information from an advertiser. (Col 2, line 60 through Col 3, line 9)

- b. Image receiving means for receiving image data from a user terminal. (Col 2, line 60 through Col 3, line 9)
- c. First display controlling means for displaying thumbnail images corresponding to the image data at the user terminal. (Col 14, lines 27 – 40).
- d. Selection receiving means for receiving a selection at the user terminal of a displayed thumbnail image. (Col 14, lines 41 – 52 and Col 20, lines 30 – 52)
- e. Second display controlling means for displaying image data corresponding to the selected thumbnail image with the received advertising information at the user terminal. (Col 14, lines 41 – 52 and Col 20, lines 30 – 52)

Claim 56: Agarwal discloses an apparatus according to Claim 55, further comprising:

- a. Third display controlling means for displaying a service menu at the user terminal. (Col 14, lines 41 – 52 and Col 15, lines 18 – 30)
- b. Receiving means for receiving a request of the service menu from the user terminal, wherein the first display controlling means displays the thumbnail images at the user terminal in response to the request received by the receiving means. (Col 14, lines 41 – 52; Col 15, lines 18 – 30; and Col 20, lines 30 – 52)

Claim 57: Agarwal discloses an apparatus according to Claim 55, wherein the image receiving means receives the image data via a cable head end. (Col 2, line 64 – Col 3, line 9; and Col 23, lines 17 – 20)

Claim 58: Agarwal discloses a method for providing image displaying services comprising the steps of:

- a. Receiving advertising information from an advertiser. (Col 11, 35-65 and Col 12, lines 13 – 43)
- b. Receiving image data from a user terminal. (Col 11, 35-65 and Col 12, lines 13 – 43)
- c. Displaying thumbnail images corresponding to the image data at the user terminal. (Col 14, lines 27 – 52 and Col 20, lines 30 – 52)
- d. Receiving a selection at the user terminal of a displayed thumbnail image. (Col 14, lines 27 – 52 and Col 20, lines 30 – 52)
- e. Displaying image data corresponding to the selected thumbnail image with the received advertising information at the user terminal. (Col 10, lines 20 – 45)

Claim 59: Agarwal discloses a computer-readable memory medium having computer executable process steps stored thereon, wherein said process steps comprise:

- a. A first receiving step for receiving advertising information from an advertiser. (Col 11, 35-65 and Col 12, lines 13 – 43)
- b. A second receiving step for receiving image data from a user terminal. (Col 11, 35-65 and Col 12, lines 13 – 43)

- c. A display step for displaying thumbnail images corresponding to the image data at the user terminal. (Col 14, lines 27 – 52 and Col 20, lines 30 – 52)
- d. A selection-receiving step for receiving a selection at the user terminal of a displayed thumbnail image. (Col 14, lines 27 – 52 and Col 20, lines 30 – 52)
- e. A second display step for displaying image data corresponding to the selected thumbnail image with the received advertising information at the user terminal. (Col 10, lines 20 – 45)

Response to Arguments

4 Applicant's arguments filed February, 9, 2006 have been fully considered but they are not persuasive. The applicant first argues that the Agarwal patent does not disclose or suggest displaying image data together with advertising information in correspondence to a selected thumbnail image. However, as pointed out in the above rejection Agarwal does disclose such features. Applicant has already agreed that Agarwal teaches that the DMF dedicates a portion of the screen to pictorial display while another portion of the screen is apportioned to informational display, which might be advertising. Therefore, the applicant is directed to Col 14, lines 41 – 52 of the Agarwal patent. This section discloses that the DMF can have multiple screens. One of these screens displays the contents of a global storage. When a user selects an icon in the global storage it is transferred to the DMF storage. Once the thumbnail image that contains advertisement is in the local DMF storage, then it

can be displayed. A direct recitation of selecting the thumbnail for display can be found in Col 20, lines 45 – 46.

Conclusion

5 **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

6 Any inquiry concerning this communication or earlier communications from the examiner should be directed to John Van Bramer whose telephone number is (571) 272-8198. The examiner can normally be reached on 9am - 5pm Monday through Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Eric Stamber can be reached on (571) 272-6724. The fax

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phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

gvs
jvb



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